

1 **WORKERS' COMPENSATION APPEALS BOARD**

2 **STATE OF CALIFORNIA**

3 **Case No. ADJ7048296**

4 **ELAYNE VALDEZ,**

5 *Applicant,*

6 **vs.**

7 **WAREHOUSE DEMO SERVICES; ZURICH**  
8 **NORTH AMERICA, Adjusted by ESIS,**

9 *Defendant(s).*

10 **OPINION AND ORDER**  
11 **GRANTING**  
12 **RECONSIDERATION**  
13 **(EN BANC)**

14 On April 20, 2011, the Appeals Board issued an en banc decision which held that where  
15 unauthorized treatment is obtained outside a validly established and properly noticed MPN, reports  
16 from the non-MPN doctors are inadmissible, and therefore may not be relied upon, and that  
17 defendant is not liable for the cost of the non-MPN reports.

18 On May 16, 2011, applicant Elayne Valdez filed a timely petition for reconsideration from  
19 the Appeals Board's en banc decision.<sup>1</sup> On May 27, 2011, defendant filed an answer to  
20 applicant's petition for reconsideration. On June 3, 2011, applicant submitted a request to file a  
21 supplemental pleading in response to defendant's answer, along with the supplemental pleading,  
22 which we allow pursuant to WCAB Rule 10848 (Cal. Code Regs., tit. 8, § 10848).

23 Taking into account the statutory time constraints for acting on the petitions, and after  
24 again reviewing the entire record, we believe reconsideration must be granted in order to allow  
25 sufficient opportunity to further study the factual and legal issues in this case. We believe that this  
26 action is necessary to give us a complete understanding of the record and to enable us to issue a

27 <sup>1</sup> On May 16, 2011, Armando Saldivar, an applicant in another case (ADJ7516842), also filed a petition for reconsideration, or in the alternative, a petition for removal, from the Appeals Board's en banc decision.

1 just and reasoned decision. Reconsideration will be granted for this purpose and for such further  
2 proceedings as we may hereinafter determine to be appropriate.

3 For the foregoing reasons,

4 **IT IS ORDERED** that Reconsideration of the Opinion and Decision After Reconsideration  
5 (En Banc) issued on April 20, 2011, is **GRANTED**.

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